

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DALE MAISANO,

Plaintiff,

v.

CORIZON HEALTH INC., *et al.*,

Defendants.

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Case No. 3:13-cv-0558

Judge Campbell

ORDER

Before the Court is plaintiff Dale Maisano's Notice of Appeal, indicating he seeks to appeal the dismissal of this action for failure to strictly comply with the restraining order governing the plaintiff's civil filings. The plaintiff did not submit either a motion to pursue his appeal *in forma pauperis* or the \$455 appellate filing fee with his notice of appeal.

As noted in the order of dismissal (ECF No. 3), the plaintiff is not merely a three-striker under 28 U.S.C. § 1915(g). Rather, he has filed so many cases while incarcerated (over 100 just in 2013, and nearly 400 during his lengthy incarceration), that he is under a restraining order entered by the United States District Court for the District of Arizona. This Court dismissed his action without prejudice for failure to comply strictly with the terms of the restraining order, without addressing the plaintiff's application to proceed as a pauper or his claim to be in imminent danger of serious physical injury.

The Court now **CERTIFIES** that the appeal of this matter is not in good faith and therefore that the plaintiff would not be permitted by this Court to pursue his appeal *in forma pauperis* even if he had submitted a motion to do so. The Court further finds that the plaintiff's complaints about a sunburn do not amount to a legitimate claim of imminent danger of serious physical injury.

Pursuant to Rule 24(a)(5), the plaintiff may nonetheless file, within **30 days** after service of this order, a motion with the Sixth Circuit Court of Appeals for leave to proceed as a pauper on appeal. *Owens v. Keeling*, 461 F.3d 763, 775 (6th Cir. 2006); *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999). The plaintiff's motion must include a copy of the motion and affidavit he previously filed in this Court as well as this Court's statement of the reasons for denying pauper status on appeal. Fed. R. App. P. 24(a)(5).

Plaintiff is notified that if he does not file a motion in the Sixth Circuit Court of Appeals within thirty days of receiving notice of this order, or fails to pay the required appellate filing fee of \$455.00 within this same time period, the appeal may be dismissed for want of prosecution. *Callihan*, 178 F.3d at 804.

The Clerk of Court is **DIRECTED** to forward a copy of this Order to the Sixth Circuit Court of Appeals.

It is so **ORDERED**.

A handwritten signature in cursive script that reads "Todd Campbell".

Todd Campbell
United States District Judge